

**CONSIDERATION OF A RESOLUTION AUTHORIZING THE DIRECTOR, OR
DESIGNEE, TO SIGN AN INTERAGENCY AGREEMENT WITH THE CENTRAL
VALLEY REGIONAL WATER QUALITY CONTROL BOARD FOR REGULATORY
ACTIVITIES FOR REMEDIATION OF INACTIVE MERCURY MINE SITES
AFFECTING DELTA WATER QUALITY**

Agenda Item: 10

Meeting Date: 8-14-03

Summary: This resolution would authorize the Director, or designee, to sign an interagency agreement with the Central Valley Regional Water Quality Control Board (RWQCB) to perform site assessments, and develop permits or enforcement orders, as needed, for high priority inactive mine sites that are currently affecting Delta water quality and contamination in fish and wildlife.

Recommended Action: Adopt Resolution 03-08-09.

Staff Recommendation: Staff recommends that the Authority adopt the attached resolution, authorizing the execution of an interagency agreement with RWQCB to support regulatory activities for remediation of inactive mercury mine sites that are affecting Delta water quality. This action supports the goals, objectives and priority actions in the CALFED Programmatic Record of Decision and Ecosystem Restoration Implementation Plan by reducing mercury loads that are affecting fish, wildlife, and human health.

Background

Mercury contamination from inactive or abandoned mine sites is causing widespread contamination of fish in the Bay-Delta watershed that may be affecting populations of fish and wildlife and creating a human health hazard for people that eat large amounts of some local fish. Previous studies funded under the Bay-Delta Program have demonstrated that mine sites are a significant source of mercury to the system. The proposed interagency agreement would provide the RWQCB with funding for staff to use regulatory actions, such as permits or enforcement orders, to facilitate the cleanup of inactive mercury mines. Mine sites have been prioritized in the scope of work based on goals and objectives in Bay-Delta Program planning documents, and previous research and monitoring that was funded by the Ecosystem Restoration Program. The RWQCB will also use these actions to support the development and implementation of Total Daily Maximum Daily Loads (TMDL) for Cache Creek and the Delta.

An objective of the Ecosystem Restoration Program is to reduce the loadings and concentrations of toxic contaminants in all aquatic environments in the Bay-Delta estuary and watershed to levels that do not adversely affect aquatic organisms, wildlife, and human health. In the Multi-Species Conservation Strategy Milestones, the Ecosystem Restoration Implementation Plan and other planning documents, specific actions listed for mercury include:

- support development and implementation of mercury TMDLs
- participate in remediation of mercury mines, as appropriate.

Proposition 13 provides \$17 million in funding that has been specified to be used to control drainage from abandoned mines. The agreement with RWQCB would use this Proposition 13 funding source.

Fiscal Information

Funding Source: Proposition 13 Mine Remediation Funds

Term: July 1, 2003 to June 30, 2004

Total Amount: \$100,000.00

List of Attachments:

Proposed Scope of Work

Contact

Name: Dan Castleberry

Phone: (916) 445-0769

CALIFORNIA BAY-DELTA AUTHORITY
RESOLUTION NO. 03-08-09

CONSIDERATION OF A RESOLUTION AUTHORIZING THE DIRECTOR, OR DESIGNEE, TO SIGN AN INTERAGENCY AGREEMENT WITH THE CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD FOR REGULATORY ACTIVITIES FOR REMEDIATION OF INACTIVE MERCURY MINE SITES AFFECTING DELTA WATER QUALITY

WHEREAS, the CALFED Programmatic Record of Decision (ROD) and the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act (Proposition 13) propose actions that include reduction of sources of mercury in the Bay-Delta watershed; and

WHEREAS, certain Proposition 13 funds previously held by the Department of Water Resources are anticipated to be transferred to the California Bay-Delta Authority's budget effective with the 2003/2004 budget; and

WHEREAS, an objective of the Ecosystem Restoration Program is to reduce the loadings and concentrations of toxic contaminants in all aquatic environments in the Bay-Delta estuary and watershed to levels that do not adversely affect aquatic organisms, wildlife, or human health; and

WHEREAS, priority actions described in the Multi-Species Conservation Strategy Milestones, the Ecosystem Restoration Implementation Plan and other planning documents include support of development and implementation of mercury Total Maximum Daily Loads (TMDL) and participation in remediation of mercury mines; and

WHEREAS, the Central Valley Regional Water Quality Control Board, as a part of the State Water Resources Control Board, is an agency responsible for protection of beneficial uses of water quality in the Central Valley and for implementation of ROD actions related to the regulation of water quality; and

WHEREAS, an interagency agreement will enable the Authority to provide support for the Central Valley Regional Water Quality Control Board to write permits and enforcement orders on priority inactive mercury mines that are adversely affecting aquatic organisms, wildlife and human health; and

WHEREAS, such an agreement will also provide support for the development and implementation of TMDLs for mercury in the Cache Creek and Delta watersheds;

NOW, THEREFORE, BE IT RESOLVED that the California Bay-Delta Authority authorizes the Director, or designee, to sign an interagency agreement with the Central Valley Regional Water Quality Control Board, for regulatory activities for remediation of inactive mercury mine sites affecting Delta water quality, as generally described in the attached proposed scope of work for an amount not to exceed \$100,000.00, subject to appropriation of adequate funds.

Agenda Item: 10
Meeting Date: 8-14-03
Page 4

CERTIFICATION

The undersigned Assistant to the California Bay-Delta Authority does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the California Bay-Delta Authority held on August 14, 2003.

Heidi Rooks
Assistant to the California Bay-Delta Authority

Attachment 1
Remediation of Inactive Mercury Mine Sites
Affecting Delta Water Quality
Proposed Scope of Work

1. Background

The Sacramento-San Joaquin Delta, Sacramento River, Cache Creek, and numerous tributaries to these waterbodies are on the Federal Clean Water Act 303(d) list for elevated concentrations of mercury in fish tissue. The Sacramento-San Joaquin Delta has a fish consumption advisory warning people to limit their consumption of fish from these waters. Wildlife may also be adversely affected. U.S. Environmental Protection Agency (USEPA) requires states to develop total maximum daily loads (TMDL) to address these water quality concerns. The TMDL program is one of the Central Valley Regional Board's highest priority programs.

There are a number of inactive mine sites in the Central Valley Region that discharge mercury to the Sacramento-San Joaquin Delta. The Cache Creek watershed is a major source of mercury to the Delta. The mercury originates from several large mercury-mining districts (including the Clear Lake, Sulphur Creek, and Knoxville Mining Districts) that contain numerous inactive mines in the upper watershed (including the Abbot and Turkey Run Mines, Central, Wide Awake, Elgin, and Manzanita mercury mines). Discharges from the mine sites and eroded material from mine waste piles that contain mercury flow into tributaries of Cache Creek (Harley Gulch, Sulfur Creek, Bear Creek) and then into Cache Creek. Mercury contaminated water and sediment flow through the downstream Cache Creek Settling Basin before entering the Yolo Bypass and then the Sacramento-San Joaquin Delta. Other mercury mine sites that discharge directly or indirectly to the Delta include, but are not limited to, the Mt. Diablo and New Idria mines.

Regional Board staff is developing TMDLs that will identify specific mercury sources and propose mercury load reductions to protect beneficial uses of the Delta and its tributaries. The technical TDML report for mercury in Cache Creek and Harley Gulch will be complete in summer 2003. Technical TMDL reports for the Delta, Bear Creek, and Sulphur Creek (tributaries to Cache Creek) are due next year. In 2005, Regional Board staff will be presenting Basin Plan amendments to the Regional Board. The Basin Plan amendments will include an implementation plan that will consist of permitting the sites and a time schedule to come into compliance with the permits to reduce discharges. The first step in the implementation program to reduce mercury discharges is to issue enforcement orders or waste discharge requirements to the mine sites and require the owners or responsible parties to initiate mine remediation to reduce or eliminate mercury discharges. The orders will include time schedules for compliance.

For this contract, the Regional Board staff person will prepare regulatory permits and enforcement orders to control discharges from inactive mercury mines as described in the

tasks below. The amount of time required to adopt permits for the mines will vary depending on the complexity of the site, available site information and monitoring data, type of permit or enforcement order required, cooperation of the property owner or responsible party and numerous other factors. The following is a list of mine sites requiring permits, with the highest priority listed first. It is anticipated that the permits for the Abbott and Turkey Run mines will provide a boilerplate for other mine permits.

- | | |
|--|-------------------------------|
| 1. Abbott | 9. Rathburn |
| 2. Turkey Run | 10. Petray (North) |
| 3. Mt. Diablo | 11. Petray (South) |
| 4. Manzanita | 12. Empire (if required) |
| 5. Wide Awake | 13. Clyde (if required) |
| 6. West End | 14. Cherry Hill (if required) |
| 7. Central Mine | 15. Elgin (if required) |
| 8. Mines in the Upper Putah Creek watershed (to be determined) | |

A majority of the mines are in the Cache Creek watershed (Abbott, Turkey Run, Manzanita, Wide Awake, West End, Central Mine, Rathburn, Petray (North and South), Empire, Clyde, Cherry Hill, and Elgin). These mine sites are a high priority due the TMDL schedule and Basin Plan amendment implementation schedule. The sites are listed by relative contributions of mercury to the Cache Creek watershed and amount of mercury wastes with the potential to discharge. Mercury from these mines enters the Cache Creek settling basin and eventually the Delta.

Abbott and Turkey Run Mine are along Highway 20 at the top of Harley Gulch. Wastes from these two mines erode directly to Harley Gulch and a wetland area adjacent to the highway. The other mine sites contribute mercury loads directly and indirectly to the Delta, and Regional Board staff is in the process of analyzing their relative source contribution. Mt. Diablo mercury mine is a high priority because there is public interest in remediation of this mine site to protect Marsh Creek, Marsh Creek Reservoir, and the proposed Delta wetland project downstream (Dutch Slough). The Mt. Diablo mine should be remediated before wetlands are constructed downstream and become methylmercury sources.

The goal of this contract is to have Regional Board staff write permits for the mine sites listed above. Given that the amount of time required to adopt permits for the mines will vary by site, at a minimum the staff will complete permits for the first six mines. If contract resources are available or the contract is amended with additional time or funding, staff will develop permits for the remaining sites as resources allow.

2. General Statement of Work and Deliverables

This study has been broken down into 5 tasks, some with subtasks.

Task 1. Project Management and Administration

The Contractor shall provide all technical and administrative services associated with performing and completing the work for this project.

The Contractor shall be responsible for the performance of the work as set forth in this agreement as well as for the preparation of products and a final report as specified in this Exhibit A. The Project Director shall promptly notify the Contract Manager of events or proposed changes that could affect the scope, budget, or schedule of work performed under this agreement.

The Contractor shall provide all quarterly progress reports, invoices, and scheduled deliverables as indicated in Section A, Attachment 1 – List of deliverables.

Subtask 1.1 Project Management

The Contractor shall provide all technical and administrative services associated with performing and completing the work for this project. Technical and administrative tasks shall include: project management, budgeting, scheduling, coordination, crew supervision, report preparation, contract management, invoicing, equipment maintenance and data collection, storage and analysis, subcontract management, and all other tasks that may be necessary to complete the scope of work specified in this agreement.

The work performed in this subtask also includes the preparation and submission of quarterly progress reports to the Authority's Contract Manager; the planning and conducting of quarterly status meetings with all project investigators to review progress and issues from the previous quarter; the preparation and submission of the project final report; and the preparation and submission of deliverable products as specified.

Subtask 1.2 Quarterly Progress Reports

Prepare and submit written quarterly progress reports to the Authority's Contract Manager. The progress reports shall detail work accomplished, discuss any problems encountered, and recommend potential solutions to those problems; detail costs incurred during the subject quarter, and document delivery of any intermediate work products. A brief outline of upcoming work scheduled for the subsequent quarter should also be provided. Progress reports must be submitted by the 10th day of the month following each calendar quarter (April, July, October, January) throughout the duration of the project.

The description of activities and accomplishments of each task during the quarter shall be in sufficient detail to provide a basis for payment of invoices and shall be translated into percent of task completed for the purposes of calculating invoice amounts.

Subtask 1.3

Data Management

Prepare and submit all water quality-related data generated by the project to the Contract Manager for input into the Authority's data system. Data formats and report guidance for the data system shall be provided by the Contract Manager. Data shall be submitted to the Contract Manager on computer diskettes or on forms provided by the Contract Manager. The Contractor shall be responsible for verifying the quality of the data.

Task Deliverable(s): Quarterly progress reports and invoices.

Task 2. Acquire Water Quality Data and Reports of Waste Discharge

Acquire all available water quality and site data. This will include data from the recent Bay-Delta Authority study and from the Cache Creek and Harley Gulch TMDL technical reports. Request a Report of Waste Discharge and filing fee, or a report pursuant to Porter Cologne Section 13267, from the current mine owners. The Report of Waste Discharge will be the basis for developing enforcement orders or waste discharge requirements. In the event Reports of Waste Discharge are not received from the mine owners or the applications are incomplete, the staff will write the permits based on available information.

Task Deliverable(s): Report of Waste Discharge request letters to mine owners.

Task 3. Gain Access to the Mine Sites for Site Inspections and Monitoring

Contact mine property owners in writing and request permission to access property for the purposes of site inspections and water quality monitoring. Conduct site inspections as needed for enforcement order or waste discharge requirements development. The Regional Board will collect and analyzed water quality data as necessary.

Task Deliverable(s): Property access letters to mine owners. Reports summarizing site inspections and the results of any water quality sampling.

Task 4. Prepare Enforcement Orders or Waste Discharge Requirements

Based on the results of Task 1, prepare the appropriate type of enforcement order (e.g., cleanup and abatement order or time schedule order) or waste discharge requirements (e.g., Title 27 requirements, NPDES permit with cease and desist order, or stormwater permit). Proposed orders should contain reporting provisions, compliance activities, and a time schedule. Present the orders to the Executive Officer or Regional Board for approval or adoption. As required, follow-up enforcement for sites not in compliance with orders and reference of appropriate cases to the Office of the Attorney General for noncompliance.

Task Deliverable(s): Enforcement order or waste discharge requirements and compliance time schedules for the individual mine sites.

Task 5. Reports

- A. The Project Director shall submit to the Contract Manager for approval the reports containing the results of the work performed in accordance with the schedule of this Exhibit.
- B. No report shall be considered final until approved and accepted by the Contract Manager.

3. REPRESENTATIVES

CBDA Program Manager

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4. TERM

The term of this agreement shall be one year, commencing July 1, 2003.

5. PAYMENT

The maximum amount payable under this agreement is \$100,000.00.